Writ Petition No. 1484(S/B) of 2002

Akhilesh Chandra and 45 others- ……..Petitioners

Versus

State of Uttaranchal and others- …..Respondents

Hon'ble M.M. Ghildiyal J.

This writ petition has been filed by the petitioners with a prayer for direction to the respondents to consider the candidature of the petitioners for selection to the posts of Assistant Teacher in L.T. Grade.

Heard Sri V.B.S. Negi learned Counsel for the petitioners and learned Standing Counsel.

The facts of the case are that in pursuance to the advertisement issued by Joint Director of Education Garhwal Mandal, Pauri dated 24.06.2002 by which applications were invited for appointment of Assistant Teacher in L.T. Grade, the petitioners alongwith several others have applied. In advertisement dated 24.06.2002, there was a clause to this effect that in case any candidate has appeared in the examination prior to the date of advertisement and the result of the said examination is declared after last date fixed for submission of application the candidate may submit the marks-sheet within three days from the date of declaration of result.

The petitioners appeared in B. Ed. Examination,2002 conducted by H.N.B. Garhwal University, Sri Nagar. Learned Counsel for the petitioners has submitted that the examination of B. Ed. held prior to the advertisement, however, the result was not declared till the last date of submission of application and, as such, they are entitled to be considered for appointment as Assistant Teacher in L.T. Grade, as per condition mentioned in the advertisement, itself.

Respondents have filed counter affidavit. In the counter affidavit, the respondents have taken a stand that the examination of B. Ed. was over on 17th August, 2002 and the petitioners are not entitled to get any benefit of any condition mentioned in the advertisement dated 17th August, 2002 (much after the date of last date of submission of application) and, as such, they are not entitled to

get the benefit of condition of the advertisement. The respondents have also filed a letter of University that the examinations of B. Ed. were over on 17th August, 2002. Whereas the last date for submission of application was 15.07.2002.

On 31.10.2002 this Court direction the respondents to consider the candidature of the petitioners for selection in L.T. Grade Teacher. The petitioners in their rejoinder affidavit have filed a letter dated 20th Jan., 2003 of Addl. Secretary, Uttaranchal Government, addressed to the Director of Education, wherein it was stated that the applicants whose application are incomplete, may be given 15 days' more time to complete the deficiency in the applications by specifying the deficiency. Learned Counsel for the petitioners has submitted that after issuing this letter, the submission of learned Standing Counsel, that the examination of B. Ed. were over after advertisement, has become meaningless. As per the order of the Government they have been given time to remove the deficiency in the application within 15 days' from 20.01.2003. He has further submitted that in pursuance to the letter dated 20.01.2003 Sri Sunil Barthwal and Km. Nandini Bamola, alongwith several others were issued letter by Joint Director, Kumoun Mandal, Nainital requiring them to deposit the marks-sheet of B.Ed. so that their candidature may be considered. The submission of the petitioners is that, these two persons have passed B. Ed. examination alongwith the petitioners. To substantiate his argument, he has filed the marks-sheet of B. Ed. examination of those persons. From the perusal of the marks-sheet, it is evident that the marks-sheets were issued to the above persons on 3rd September, 2002. Learned Counsel for the petitioner has submitted that the candidature of the petitioners have not been considered by the Joint Director of Education, in spite of the order passed by this Court on 31st October,2002 and in pursuance to the letter dated 20.01.2003 of the State of Uttaranchal, which is clear from the fact that the respondent has issued appointment to one Sri Akhilesh Negi who has got 84.03 quality points. Had the candidature of the petitioners considered, they

would have got the appointment as one of the petitioner have got 86.76 quality points.

Learned Standing Counsel could not show whether the candidature of the petitioners were considered by the respondent for selection of the L.T. Grade Teacher or not. On the contrary, stand taken in counter affidavit is that since the examination of B. Ed. had been over on 17th August, 2002, the petitioners were not liable to be considered.

It is clear that the respondent has considered the candidatures of some of the applicants who have appeared in B.Ed. examination,2002 and the candidature of the petitioners have not been considered.

For the reasons recorded, the respondent- Joint Director is directed to consider the candidature of petitioners for appointment to the posts of Assistant Teacher L.T. Grade and in case any person having less quality marks than the petitioners, has been provided appointment, the petitioners shall also be given appointment.

The writ petition is disposed of accordingly. No order as to costs.

(M.M.Ghildiyal J.)

July 07 ,2003:
NCM: